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BEFORE THE
PHYSICIAN ASSISTANT BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 1E-2013-233060

**KENDRA ARMOUR, P.A.
13261 Luna Rd
Victorville, CA 92392**

A C C U S A T I O N

**Physician Assistant License No. PA 13441,
Respondent.**

Complainant alleges:

PARTIES

1. Glenn L. Mitchell, Jr. (complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Physician Assistant Board, Department of Consumer Affairs, State of California (Board).

2. On or about January 17, 1995, the Board issued Physician Assistant Number PA 13441 to Kendra Armour, P.A. (respondent). The Physician Assistant License was in full force and effect at all times relevant to the charges and allegations brought herein and will expire on December 31, 2016, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 3527 of the Code states:

“(a) The board may order the denial of an application, or the issuance subject to terms and conditions of, or the suspension or revocation of, or the imposition of probationary conditions upon a physician assistant license after a hearing as required in Section 3528 for unprofessional conduct that includes, but is not limited to, a violation of this chapter, a violation of the Medical Practice Act, or a violation of the regulations adopted by the board or the Medical Board of California.

“... ”

“(f) The board may order the licensee to pay the costs of monitoring the probationary conditions imposed on the license.

“... ”

5. Section 2227 of the Code states:

“(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

“(1) Have his or her license revoked upon order of the board.

“(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

“(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

“(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the

1 board.

2 “(5) Have any other action taken in relation to discipline as part of an order of
3 probation, as the board or an administrative law judge may deem proper.

4 “...”

5 6. Section 2234 of the Code states:

6 “The board shall take action against any licensee who is charged with unprofessional
7 conduct. In addition to other provisions of this article, unprofessional conduct includes, but
8 is not limited to, the following:

9 “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting
10 the violation of, or conspiring to violate any provision of this chapter.

11 “...”

12 “(e) The commission of any act involving dishonesty or corruption which is
13 substantially related to the qualifications, functions, or duties of a physician and surgeon.

14 “(f) Any action or conduct that would have warranted the denial of a certificate.

15 “...”

16 7. Section 2261 of the Code states:

17 “Knowingly making or signing any certificate or other document directly or indirectly
18 related to the practice of medicine or podiatry which falsely represents the existence or
19 nonexistence of a state of facts, constitutes unprofessional conduct.”

20 8. Section 2266 of the Code states:

21 “The failure of a physician and surgeon to maintain adequate and accurate records
22 relating to the provision of services to their patients constitutes unprofessional conduct.”

23 9. Section 2052 of the Code states:

24 “(a) Notwithstanding Section 146, any person who practices or attempts to practice,
25 or who advertises or holds himself or herself out as practicing, any system or mode of
26 treating the sick or afflicted in this state, or who diagnoses, treats, operates for, or prescribes
27 for any ailment, blemish, deformity, disease, disfigurement, disorder, injury, or other
28 physical or mental condition of any person, without having at the time of so doing a valid,

1 unrevoked, or unsuspended certificate as provided in this chapter [Chapter 5, the Medical
2 Practice Act], or without being authorized to perform the act pursuant to a certificate
3 obtained in accordance with some other provision of law, is guilty of a public offense,
4 punishable by a fine not exceeding ten thousand dollars (\$10,000), by imprisonment
5 pursuant to subdivision (h) of Section 1170 of the Penal Code, by imprisonment in a county
6 jail not exceeding one year, or by both the fine and either imprisonment.

7 “(b) Any person who conspires with or aids or abets another to commit any act
8 described in subdivision (a) is guilty of a public offense, subject to the punishment
9 described in that subdivision.

10 “(c) The remedy provided in this section shall not preclude any other remedy provided
11 by law.”

12 10. Section 3502 of the Code states:

13 “(a) Notwithstanding any other law, a physician assistant may perform those medical
14 services as set forth by the regulations adopted under this chapter when the services are
15 rendered under the supervision of a licensed physician and surgeon who is not subject to a
16 disciplinary condition imposed by the Medical Board of California prohibiting that
17 supervision or prohibiting the employment of a physician assistant. The medical record, for
18 each episode of care for a patient, shall identify the physician and surgeon who is
19 responsible for the supervision of the physician assistant.¹

20 “...”

21 “(c)²(1) A physician assistant and his or her supervising physician and surgeon shall
22 establish written guidelines for the adequate supervision of the physician assistant. This
23 requirement may be satisfied by the supervising physician and surgeon adopting protocols
24 for some or all of the tasks performed by the physician assistant. The protocols adopted
25 pursuant to this subdivision shall comply with the following requirements:

26 ¹ The final sentence of sec. 3502, subd. (a), was added effective January 1, 2016.

27 ² Sec. 3502, subd. (c), relating to guidelines for supervision of the physician assistant,
28 including protocols, was added effective January 1, 2008.

1 “(A) A protocol governing diagnosis and management shall, at a minimum,
2 include the presence or absence of symptoms, signs, and other data necessary to establish a
3 diagnosis or assessment, any appropriate tests or studies to order, drugs to recommend to
4 the patient, and education to be provided to the patient.

5 “(B) A protocol governing procedures shall set forth the information to be
6 provided to the patient, the nature of the consent to be obtained from the patient, the
7 preparation and technique of the procedure, and the followup care.

8 “(C) Protocols shall be developed by the supervising physician and surgeon or
9 adopted from, or referenced to, texts or other sources.

10 “(D) Protocols shall be signed and dated by the supervising physician and
11 surgeon and the physician assistant.

12 “(2)(A) The supervising physician and surgeon shall use one or more of the following
13 mechanisms to ensure adequate supervision of the physician assistant functioning under the
14 protocols:

15 “(i) The supervising physician and surgeon shall review, countersign, and
16 date a sample consisting of, at a minimum, 5 percent³ of the medical records of
17 patients treated by the physician assistant functioning under the protocols within 30
18 days of the date of treatment by the physician assistant.

19 “(ii)⁴ The supervising physician and surgeon and physician assistant shall
20 conduct a medical records review meeting at least once a month during at least 10
21 months of the year. During any month in which a medical records review meeting
22 occurs, the supervising physician and surgeon and physician assistant shall review an
23 aggregate of at least 10 medical records of patients treated by the physician assistant
24 functioning under protocols. Documentation of medical records reviewed during the

25
26 ³ The requirement that the supervising physician and surgeon review, countersign, and
27 date a sample consisting of a minimum of 5 percent of the medical records of patients treated by
the physician assistant was added effective January 1, 2008.

28 ⁴ This subsection was added effective January 1, 2016.

1 month shall be jointly signed and dated by the supervising physician and surgeon and
2 the physician assistant.

3 “(iii)⁵ The supervising physician and surgeon shall review a sample of at least
4 10 medical records per month, at least 10 months during the year, using a combination of
5 the countersignature mechanism described in clause (i) and the medical records review
6 meeting mechanism described in clause (ii). During each month for which a sample is
7 reviewed, at least one of the medical records in the sample shall be reviewed using the
8 mechanism described in clause (i) and at least one of the medical records in the sample
9 shall be reviewed using the mechanism described in clause (ii).

10 “(B) In complying with subparagraph (A), the supervising physician and surgeon shall
11 select for review those cases that by diagnosis, problem, treatment, or procedure represent,
12 in his or her judgment, the most significant risk to the patient.

13 “(3) Notwithstanding any other law, the Medical Board of California or the board may
14 establish other alternative mechanisms for the adequate supervision of the physician
15 assistant.

16 “...”

17 11. Section 3502.1 of the Code states:

18 “(a) In addition to the services authorized in the regulations adopted by the Medical
19 Board of California, and except as prohibited by Section 3502, while under the supervision
20 of a licensed physician and surgeon or physicians and surgeons authorized by law to
21 supervise a physician assistant, a physician assistant may administer or provide medication
22 to a patient, or transmit orally, or in writing on a patient’s record or in a drug order, an order
23 to a person who may lawfully furnish the medication ... pursuant to subdivisions (c) and
24 (d).

25 “(1)...

26 “(2) Each supervising physician and surgeon who delegates the authority to

27
28 ⁵ This subsection was added effective January 1, 2016.

1 issue a drug order to a physician assistant shall first prepare and adopt, or adopt, a written,
2 practice specific, formulary and protocols that specify all criteria for the use of a particular
3 drug or device, and any contraindications for the selection. Protocols for Schedule II
4 controlled substances shall address the diagnosis of illness, injury, or condition for which
5 the Schedule II controlled substance is being administered, provided, or issued. The drugs
6 listed in the protocols shall constitute the formulary and shall include only drugs that are
7 appropriate for use in the type of practice engaged in by the supervising physician and
8 surgeon. When issuing a drug order, the physician assistant is acting on behalf of and as
9 an agent for a supervising physician and surgeon.

10 “(b) ‘Drug order,’ for purposes of this section, means an order for medication that is
11 dispensed to or for a patient, issued and signed by a physician assistant acting as an
12 individual practitioner within the meaning of Section 1306.02 of Title 21 of the Code of
13 Federal Regulations...

14 “(c) A drug order for any patient cared for by the physician assistant that is issued by
15 the physician assistant shall either be based on the protocols described in subdivision (a) or
16 shall be approved by the supervising physician and surgeon before it is filled or carried out.

17 “(1) A physician assistant shall not administer or provide a drug or issue a drug
18 order for a drug other than for a drug listed in the formulary without advance approval
19 from a supervising physician and surgeon for the particular patient. At the direction and
20 under the supervision of a physician and surgeon, a physician assistant may hand to a
21 patient of the supervising physician and surgeon a properly labeled prescription drug
22 prepackaged by a physician and surgeon, manufacturer as defined in the Pharmacy Law, or
23 a pharmacist.

24 “(2)⁶ A physician assistant shall⁷ not administer, provide, or issue a drug order
25 to a patient for Schedule II through Schedule V controlled substances without advance

26 ⁶ A prior version of this subsection, effective January 1, 2005, through December 31,
27 2012, stated only: “A physician assistant may not administer, provide or issue a drug order for
28 Schedule II through Schedule V controlled substances without advance approval by a supervising
physician and surgeon for the particular patient.”

(continued...)

1 approval by a supervising physician and surgeon for that particular patient unless the
2 physician assistant has completed an education course that covers controlled substances
3 and that meets standards, including pharmacological content, approved by the board. The
4 education course shall be provided either by an accredited continuing education provider
5 or by an approved physician assistant training program. If the physician assistant will
6 administer, provide, or issue a drug order for Schedule II controlled substances, the course
7 shall contain a minimum of three hours exclusively on Schedule II controlled substances.
8 Completion of the requirements set forth in this paragraph shall be verified and
9 documented in the manner established by the board prior to the physician assistant's use of
10 a registration number issued by the United States Drug Enforcement Administration to the
11 physician assistant to administer, provide, or issue a drug order to a patient for a controlled
12 substance without advance approval by a supervising physician and surgeon for that
13 particular patient.

14 “(3) Any drug order issued by a physician assistant shall be subject to a
15 reasonable quantitative limitation consistent with customary medical practice in the
16 supervising physician and surgeon's practice.

17 “(d) A written drug order issued pursuant to subdivision (a), except a written drug
18 order in a patient's medical record in a health facility or medical practice, shall contain the
19 printed name, address, and telephone number of the supervising physician and surgeon, the
20 printed or stamped name and license number of the physician assistant, and the signature of
21 the physician assistant. Further, a written drug order for a controlled substance, except a
22 written drug order in a patient's medical record in a health facility or a medical practice,
23 shall include the federal controlled substances registration number of the physician assistant
24 and shall otherwise comply with Section 11162.1 of the Health and Safety Code. Except as
25 otherwise required for written drug orders for controlled substances under Section 11162.1

26

 (...continued)

27 ⁷ Prior to January 1, 2016, all previous versions of this subsection used the word “may”
28 instead of “shall.”

1 of the Health and Safety Code, the requirements of this subdivision may be met through
2 stamping or otherwise imprinting on the supervising physician and surgeon's prescription
3 blank to show the name, license number, and if applicable, the federal controlled substances
4 registration number of the physician assistant, and shall be signed by the physician assistant.
5 When using a drug order, the physician assistant is acting on behalf of and as the agent of a
6 supervising physician and surgeon.

7 “(e) The supervising physician and surgeon shall use either of the following
8 mechanisms to ensure adequate supervision of the administration, provision, or issuance by
9 a physician assistant of a drug order to a patient for Schedule II controlled substances:

10 “(1) The medical record of any patient cared for by a physician assistant for
11 whom the physician assistant's Schedule II drug order has been issued or carried out shall
12 be reviewed, countersigned, and dated by a supervising physician and surgeon within
13 seven days.

14 “(2)⁸ If the physician assistant has documentation evidencing the successful
15 completion of an education course that covers controlled substances, and that controlled
16 substance education course (A) meets the standards ... established in Sections 1399.610
17 and 1399.612 of Title 16 of the California Code of Regulations, and (B) is provided either
18 by an accredited continuing education provider or by an approved physician assistant
19 training program, the supervising physician and surgeon shall review, countersign, and
20 date, within seven days, a sample consisting of the medical records of at least 20 percent
21 of the patients cared for by the physician assistant for whom the physician assistant's
22 Schedule II drug order has been issued or carried out. Completion of the requirements set
23 forth in this paragraph shall be verified and documented in the manner established in
24 Section 1399.612 of Title 16 of the California Code of Regulations. Physician assistants
25 who have a certificate of completion of the course described in paragraph (2) of
26 subdivision (c) shall be deemed to have met the education course requirement of this

27
28

⁸ This subsection was added effective January 1, 2016.

1 subdivision.

2 “...”

3 12. Section 4021 of the Code states, in pertinent part:

4 “‘Controlled substance’ means any substance listed in Chapter 2 (commencing with
5 Section 11053) of Division 10 of the Health and Safety Code.”

6 13. Section 4022 of the Code states, in pertinent part:

7 “‘Dangerous drug’ ... means any drug ... unsafe for self-use in humans or animals,
8 and includes the following:

9 “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing
10 without prescription,’ ‘Rx only,’ or words of similar import.

11 “...”

12 “(c) Any other drug ... that by federal or state law can be lawfully dispensed only on
13 prescription or furnished pursuant to Section 4006.”

14 14. California Code of Regulations, title 16, section 1399.521, states:

15 “In addition to the grounds set forth in section 3527, subdivision (a), of the code the
16 board may deny, issue subject to terms and conditions, suspend, revoke or place on
17 probation a physician assistant for the following causes:

18 “(a) Any violation of the State Medical Practice Act which would constitute
19 unprofessional conduct for a physician and surgeon.

20 “...”

21 “(d) Performing medical tasks which exceed the scope of practice of a physician
22 assistant as prescribed in these regulations.”

23 15. California Code of Regulations, title 16, section 1399.540, states:

24 “(a) A physician assistant may only provide those medical services which he or she is
25 competent to perform and which are consistent with the physician assistant’s education,
26 training, and experience, and which are delegated in writing by a supervising physician who
27 is responsible for the patients cared for by that physician assistant.

28 ////

1 “(b) The writing which delegates the medical services shall be known as a delegation
2 of services agreement. A delegation of services agreement shall be signed and dated by the
3 physician assistant and each supervising physician. A delegation of services agreement may
4 be signed by more than one supervising physician only if the same medical services have
5 been delegated by each supervising physician. A physician assistant may provide medical
6 services pursuant to more than one delegation of services agreement.

7 “...

8 “(d) A physician assistant shall consult with a physician regarding any task, procedure
9 or diagnostic problem which the physician assistant determines exceeds his or her level of
10 competence or shall refer such cases to a physician.”

11 16. California Code of Regulations, title 16, section 1399.545 states:

12 “(a) A supervising physician shall be available in person or by electronic
13 communication at all times when the physician assistant is caring for patients.

14 “(b) A supervising physician shall delegate to a physician assistant only those tasks
15 and procedures consistent with the supervising physician’s specialty or usual and customary
16 practice and with the patient’s health and condition.

17 “(c) A supervising physician shall observe or review evidence of the physician
18 assistant’s performance of all tasks and procedures to be delegated to the physician assistant
19 until assured of competency.

20 “(d) The physician assistant and the supervising physician shall establish in writing
21 transport and back-up procedures for the immediate care of patients who are in need of
22 emergency care beyond the physician assistant’s scope of practice for such times when a
23 supervising physician is not on the premises.

24 “(e) A physician assistant and his or her supervising physician shall establish in
25 writing guidelines for the adequate supervision of the physician assistant which shall
26 include one or more of the following mechanisms:

27 “(1) Examination of the patient by a supervising physician the same day as care
28 is given by the physician assistant;

1 “(2) Countersignature and dating of all medical records written by the physician
2 assistant within thirty (30) days that the care was given by the physician assistant;

3 “(3) The supervising physician may adopt protocols to govern the performance
4 of a physician assistant for some or all tasks. The minimum content for a protocol
5 governing diagnosis and management as referred to in this section shall include the
6 presence or absence of symptoms, signs, and other data necessary to establish a diagnosis
7 or assessment, any appropriate tests or studies to order, drugs to recommend to the patient,
8 and education to be given the patient. For protocols governing procedures, the protocol
9 shall state the information to be given the patient, the nature of the consent to be obtained
10 from the patient, the preparation and technique of the procedure, and the follow-up care.
11 Protocols shall be developed by the physician, adopted from, or referenced to, texts or
12 other sources. Protocols shall be signed and dated by the supervising physician and the
13 physician assistant. The supervising physician shall review, countersign, and date a
14 minimum of 5% sample of medical records of patients treated by the physician assistant
15 functioning under these protocols within thirty (30) days. The physician shall select for
16 review those cases which by diagnosis, problem, treatment or procedure represent, in his
17 or her judgment, the most significant risk to the patient;

18 “(4) Other mechanisms approved in advance by the board.

19 “(f) The supervising physician has continuing responsibility to follow the progress of
20 the patient and to make sure that the physician assistant does not function autonomously. The
21 supervising physician shall be responsible for all medical services provided by a physician
22 assistant under his or her supervision.”

23 17. Section 2415 of the Code states:

24 “(a) Any physician and surgeon ..., who as a sole proprietor, or in a partnership,
25 group, or professional corporation, desires to practice under any name that would otherwise
26 be a violation of Section 2285 may practice under that name if the proprietor, partnership,
27 group, or corporation obtains and maintains in current status a fictitious-name permit issued
28 by the Division of Licensing [of the Medical Board of California] ... under the provisions

1 of this section.

2 “(b) The division or the [Medical] board shall issue a fictitious-name permit
3 authorizing the holder thereof to use the name specified in the permit in connection with
4 his, her, or its practice if the division or the [Medical] board finds to its satisfaction that:

5 “(1) The applicant or applicants or shareholders of the professional corporation
6 hold valid and current licenses as physicians and surgeons ...

7 “(2) The professional practice of the applicant or applicants is wholly owned and
8 entirely controlled by the applicant or applicants.

9 “(3) The name under which the applicant or applicants propose to practice is not
10 deceptive, misleading, or confusing.

11 “(c) Each permit shall be accompanied by a notice that shall be displayed in a
12 location readily visible to patients and staff. The notice shall be displayed at each place of
13 business identified in the permit.

14 “...

15 “(e) Fictitious-name permits issued under this section shall be subject to Article 19
16 (commencing with Section 2420) pertaining to renewal of licenses, except the division shall
17 establish procedures for the renewal of fictitious-name permits every two years on an
18 anniversary basis...

19 “...”

20 18. Section 2285 of the Code states:

21 “The use of any fictitious, false, or assumed name, or any name other than his or her
22 own by a licensee either alone, in conjunction with a partnership or group, or as the name of
23 a professional corporation, in any public communication, advertisement, sign, or
24 announcement of his or her practice without a fictitious-name permit obtained pursuant to
25 Section 2415 constitutes unprofessional conduct. This section shall not apply to the
26 following:

27 “(a) Licensees who are employed by a partnership, a group, or a professional
28 corporation that holds a fictitious name permit.

1 “(b) Licensees who contract with, are employed by, or are on the staff of, any clinic
2 licensed by the State Department of Health Services under Chapter 1 (commencing with
3 Section 1200) of Division 2 of the Health and Safety Code.

4 “(c) An outpatient surgery setting granted a certificate of accreditation from an
5 accreditation agency approved by the medical board.

6 “(d) Any medical school approved by the division or a faculty practice plan
7 connected with the medical school.”

8 19. Section 2286 of the Code states:

9 “It shall constitute unprofessional conduct for any licensee to violate, to attempt to
10 violate, directly or indirectly, to assist in or abet the violation of, or to conspire to violate
11 any provision or term of Article 18 (commencing with Section 2400), of the Moscone-Knox
12 Professional Corporation Act (Part 4 commencing with Section 13400) of Division 3 of
13 Title 1 of the Corporations Code), or of any rules and regulations duly adopted under those
14 laws.”

15 20. Section 2406 of the Code states:

16 “A medical ... corporation is a corporation which is authorized to render professional
17 services, as defined in Section 13401 of the Corporations Code, so long as that corporation
18 and its shareholders, officers, directors and employees rendering professional services who
19 are physicians and surgeons, ..., or, in the case of a medical corporation only, physician
20 assistants, ... are in compliance with the Moscone-Knox Professional Corporation Act
21 [Corporations Code section 13400 et seq.], the provisions of this article and all other
22 statutes and regulations now or hereafter enacted or adopted pertaining to the corporation
23 and the conduct of its affairs.

24 “With respect to a medical corporation or podiatry corporation, the governmental
25 agency referred to in the Moscone-Knox Professional Corporation Act is the board.”

26 21. Section 13401.5 of the Corporations Code states:

27 “Notwithstanding subdivision (d) of Section 13401 and any other provision of law,
28 the following licensed persons may be shareholders, officers, directors, or professional

1 employees of the professional corporations designated in this section so long as the sum of
2 all shares owned by those licensed persons does not exceed 49 percent of the total number
3 of shares of the professional corporation so designated herein, and so long as the number of
4 those licensed persons owning shares in the professional corporation so designated herein
5 does not exceed the number of persons licensed by the governmental agency regulating the
6 designated professional corporation. ...

7 “(a) Medical corporation.

8 “...

9 “(7) Licensed physician assistants.

10 “...”

11 22. Unprofessional conduct under California Business and Professions Code section 2234
12 is conduct which breaches the rules or ethical code of the medical profession, or conduct which is
13 unbecoming to a member in good standing of the medical profession, and which demonstrates an
14 unfitness to practice medicine.⁹

15 **COST RECOVERY**

16 23. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
17 administrative law judge to direct a licentiate found to have committed a violation or violations of
18 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
19 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
20 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
21 included in a stipulated settlement.

22 **FIRST CAUSE FOR DISCIPLINE**

23 **(Unlicensed Practice of Medicine)**

24 24. Respondent is subject to disciplinary action under sections 3527 and 2234 of the Code
25 and California Code of Regulations, title 16, section 1399.521, as defined by sections 2052, 2234,
26 2234, subdivisions (a) and (f), 3502, 3502.1, 2286, and 2406 of the Code, and California Code of

27 _____
28 ⁹ *Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.

1 Regulations, title 16, sections 1399.540, 1399.545 and 1399.521, subdivisions (a) and (d), in that
2 she engaged in the unlicensed practice of medicine, as more particularly alleged hereinafter:¹⁰

3 25. On or about August 23, 2006, respondent's attorney executed Articles of
4 Incorporation of the "Kendra Care Medical Group, A Medical Corporation," which was
5 incorporated by the Secretary of State of California on or about August 24, 2006. The agent for
6 service of process was listed as respondent.

7 26. On or about August 28, 2006, respondent purportedly issued to herself a shareholder
8 certificate documenting that forty-nine (49) shares¹¹ of "Kare Medical Group, Inc."¹² had been
9 transferred to respondent.

10 27. On or about October 2, 2006, respondent entered into a commercial lease agreement
11 as "tenant," in the name of "Kendra D. Armour, DBA: Kendra Care Medical Group" for a
12 practice location at 15080 Seventh Street, #6, Victorville, CA 92392.

13 28. On or about sometime in 2006, respondent contacted L.T., M.D. and asked him to
14 work for her and be her supervising physician. L.T., M.D., was not asked to be respondent's
15 partner, and did not own any portion of the practice. L.T., M.D., knew respondent as they had
16 both worked at Dr. Mike's Walk-In Clinic.

17 29. On or about September 4, 2006, an application for a fictitious name permit (FNP) was
18 submitted to the Medical Board of California (MBC) for Kendra Care Medical Group, A Medical
19 Corporation. The application indicated that respondent owned 49% of the shares of the
20 corporation and L.T., M.D., owned 51% of the shares, although L.T., M.D. had no ownership in
21 the practice. The application was found deficient and returned by the MBC analyst as the
22 proposed fictitious name, "Kendra Care Medical Group," was considered potentially misleading

23 ¹⁰ Conduct occurring more than seven (7) years from the filing date of this Accusation is
24 for informational purposes only and is not alleged as a basis for disciplinary action.

25 ¹¹ This represented 49 percent of a total of 100 shares that were purportedly issued by
26 "Kare Medical Group, Inc."

27 ¹² There is no corporation named "Kare Medical Group, Inc." registered with the Secretary
28 of State. "Kare Medical Group, Inc." is the fictitious name permit (FNP) that was issued by the
Medical Board in November 2006 after they denied a FNP to "Kendra Care Medical Group." See
paragraphs 29 and 30, below.

1 to the public "since a physician must own the majority of the shares, and it looks as though Ms.
2 Armour is the main owner of the practice in the name style."

3 30. On or about November 21, 2006, the MBC approved a FNP for "Kare Medical Group,
4 Inc." The owners of the medical group were listed as respondent and L.T., M.D., respectively.
5 The FNP had an expiration date of November 30, 2008, unless renewed.

6 31. Respondent personally borrowed an amount of approximately \$100,000, which was
7 used to fund the practice. L.T., M.D., made no cash investment in the business.

8 32. On or about sometime in 2006, L.T., M.D., began working at Kare Medical Group,
9 Inc. L.T., M.D., was paid approximately \$50.00 per hour and received health insurance benefits.
10 L.T., M.D., worked three days per week and was periodically on call.

11 33. No protocols were established and no drug formularies were created by L.T., M.D., as
12 the supervising physician of respondent.

13 34. On or about January 29, 2009, respondent filed with the Secretary of State a
14 Statement of Information regarding "Kendra Care Medical Group," a medical corporation.
15 Respondent was named as the Secretary and Chief Financial Officer of the corporation and L.T.,
16 M.D., was listed as the Chief Executive Officer. Respondent was also named the agent for
17 service of process.

18 35. L.T., M.D., left the practice sometime in 2010.

19 36. L.T., M.D., did not receive any compensation for his purported shares of the business
20 when he left Kare Medical Group, Inc. During the time that L.T., M.D. was affiliated with Kare
21 Medical Group, Inc., he was not involved in the day-to-day running of the practice. Respondent
22 hired and fired all staff, respondent leased the practice location, and respondent was the only
23 person with authority over the business bank account. L.T., M.D. did not know what bank the
24 practice used. Neither was L.T., M.D., aware that shares in the corporation had purportedly been
25 issued in his name.

26 37. On or about August 10, 2010, E.J., M.D. became the supervising physician for
27 respondent. At no time did E.J., M.D. have an ownership interest in Kare Medical Group, Inc. or
28 Kendra Kare Medical Group, or any authority over the business bank account. E.J., M.D.,

1 received a fixed salary from Kare Medical Group, Inc., in the amount of \$1,000 per month.

2 38. On or about December 10, 2010, E.J., M.D. purportedly received fifty-one shares for
3 Kare Medical Group, Inc.

4 39. On or about January 23, 2013, at the request of then Medical Board Investigator J.D.,
5 respondent provided the MBC with a copy of an agreement purportedly entered into between her
6 and E.J., M.D., on or about December 10, 2010 (the agreement). As part of the terms of this
7 agreement, E.J., M.D., agreed to serve as general physician for Kare Medical Group, Inc. The
8 agreement was purportedly signed on December 10, 2010, and the agreement itself was stated to
9 be "effective as of 12-10-10"; however, elsewhere in the agreement, it was stated to "commence
10 12-10-13."

11 40. An unsigned document purporting to outline E.J., M.D.'s responsibility as supervising
12 physician for respondent, and providing the "Back Up Procedures" for when E.J., M.D., the
13 supervising physician was not available when needed, provided no names of alternate physicians.

14 41. On or about July 5, 2011, Kendra Kare Medical Group, A Medical Corporation, filed
15 documents with the Secretary of State. The documents indicated that E.J., M.D., was the Chief
16 Executive Officer and respondent was the Secretary and Chief Financial Officer of the medical
17 corporation.

18 42. On or about May 15, 2013, E.J., M.D., formally ceased to serve as respondent's
19 supervising physician and Medical Director of Kare Medical Group, Inc. According to
20 respondent, R.N., M.D., then took over E.J., M.D.'s majority share in the corporation and also
21 became respondent's supervising physician.

22 43. On or about June 3, 2014, R.N., M.D., informed Health Quality Investigation Unit
23 (HQIU) Senior Investigator S.T. that he had earlier spoken with respondent about becoming her
24 supervising physician. Respondent had informed R.N., M.D., that she would pay him for his
25 work. However, R.N., M.D., became ill and did not accept the position with respondent. He
26 denied ever having seen any of respondent's patients or ever reviewing any of her charts. R.N.,
27 M.D., further stated that he never had an ownership interest in Kare Medical Group, Inc.

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1 44. On or about sometime prior to June 1, 2013, respondent approached O.P., M.D., a
2 licensed physician who specialized in obstetrics and gynecology, to become her supervising
3 physician. O.P., M.D., had his own private practice in the area.

4 45. From on or about June 1, 2013, respondent hired O.P., M.D., to be her supervising
5 physician. O.P., M.D., did not have an ownership interest in Kendra Care Medical or Kare
6 Medical Group, Inc. Respondent paid O.P., M.D., a flat rate twice a month for acting as her
7 supervising physician. O.P., M.D., went to the clinic once per week to review charts. Respondent
8 would refer patients who had abnormal pap smears or abnormal bleeding to O.P., M.D. Those
9 patients would be seen by O.P., M.D., in his private practice office, and not at Kare Medical
10 Group, Inc.

11 46. On or about July 31, 2013, the MBC documented that the FNP had expired effective
12 November 30, 2008, and was delinquent.

13 47. On or about August 9, 2013, respondent filed documents with the Secretary of State
14 in her purported capacity as the secretary of Kendra Kare Medical Group, A Medical Corporation.
15 The documents indicate that R.N., M.D., was the Chief Executive Officer and respondent was the
16 Secretary and Chief Financial Officer. Respondent's attorney is named as the agent for service of
17 process.

18 48. On or about November 5, 2013, respondent informed Senior Investigator S.T. that she
19 was supervised by both O.P., M.D., who had a "stake" in the practice, and R.N., M.D., who, she
20 claimed, was a part owner of the clinic but was not going to stay involved in the clinic on a long-
21 term basis. In or around June 2014, O.P., M.D., informed Senior Investigator S.T. that he was
22 unaware of anyone else supervising respondent during the period that he acted as her supervising
23 physician. When interviewed by Senior Investigator S.T., R.N., M.D., denied ever having acted
24 as respondent's supervising physician or being a part owner of the clinic.

25 49. On or about April 30, 2014, O.P., M.D., stopped supervising respondent after
26 receiving a publication from the American College of Obstetrics and Gynecology, which
27 recommended that obstetricians and gynecologists should not supervise in any practice where
28 male patients were seen.

1 50. Sometime approximately during the second half of 2014, V.J.B., M.D., reportedly
2 became respondent's supervising physician and still supervises respondent. He has no ownership
3 in the practice or the corporation.

4 51. On or about November 30, 2014, respondent filed documents with the Secretary of
5 State. The documents indicate that V.J.B., M.D., is the Chief Executive Officer of Kendra Care
6 Medical Group, A Medical Corporation, and respondent is the corporation's Secretary and Chief
7 Financial Officer. Respondent's attorney is named as the agent for service of process.

8 52. On or about April 22, 2016, respondent provided Senior Investigator S.T. with
9 various purported corporate documents, including the following:

10 (a) Purported "Minutes of the First Meeting of the Board of Directors [of] Kare Medical
11 Group, A Medical Corporation," claim that this meeting was held on August 28, 2006, and
12 attended by respondent and L.T., M.D. According to these "Minutes," it was resolved that the
13 corporation would issue and sell 51 shares of its authorized stock to L.T., M.D., for the "cash
14 consideration" of \$51.00, and 49 shares to respondent, for the cash consideration of \$49.00. In
15 fact, L.T., M.D., denies any knowledge of corporate meetings or ownership of any stock or any
16 part of the business.

17 (b) A document entitled "Action By Unanimous Written Consent of Shareholders of Kare
18 Medical Group A Medical Corporation," dated January 6, 2014, claims that R.N., M.D., was
19 unanimously elected as director of the corporation for the calendar year 2014. It states, further,
20 that "Whereas, [R.N., M.D., a male person,] has other practices, she wishes any payment to her as
21 shareholder or Medical Director be paid to her personal corporation..." In fact, R.N., M.D., who
22 denied ever having supervised respondent, or having any ownership in Kare Medical Group,
23 suffered a spinal cord contusion on or about August 28, 2013, and did not return to the practice of
24 medicine until the end of May 2014.

25 (c) Other documents claim that V.J.B., M.D., was elected as director of the corporation in
26 July 2014, and was elected as President of the corporation for the calendar years 2015 and 2016.
27 In fact, V.J.B., M.D., denies any ownership of the corporation. V.J.B., M.D., receives a salary of
28 \$2,500 per month and has no signing authority on the corporate bank account.

1 53. At an interview conducted by Senior Investigator S.T. on or about April 6, 2016, as
2 part of the Board's investigation into this matter, respondent stated that the "DBA" for the
3 practice was "Kendra Kare Medical Group" and that the corporation's name was "Kare Medical
4 Group." When asked whether the corporation has stocks, respondent said it did not. Her attorney
5 then informed respondent that they do, in fact, have stock certificates and explained that
6 "[Respondent] just --- she doesn't --- she hasn't used it. I mean they've been in business so long
7 she doesn't even realize it. But yeah, there are stock certificates."

8 54. On or about April 28, 2016, respondent provided Senior Investigator S.T. with several
9 shareholder certificates purportedly issued by "Kare Medical Group, Inc." Among others, these
10 stock certificates state the following:

11 (a) On or about May 15, 2013, R.N., M.D., purportedly received fifty-one shares from
12 E.J., M.D.;

13 (b) On or about May 1, 2013, R.N., M.D., purportedly transferred fifty-one shares to
14 V.J.B., M.D. In fact, V.J.B., M.D., did not become involved in the practice or the corporation in
15 any way before 2014.

16 (c) One of the stock certificates documents that fifty-one (51) shares of "Kare Medical
17 Group, Inc." have been transferred to L.T., M.D. L.T., M.D., never received the shareholder
18 certificate and is unaware of his ownership in the corporation.

19 55. Neither O.P., M.D., nor E.J., M.D., nor R.N., M.D., was ever issued an FNP in the
20 name of Kare Medical Group, Inc.

21 56. All or nearly all respondent's supervising physicians were either paid by the business
22 as independent contractors or were hired by respondent as *locum tenens*.

23 57. During the course of the Board's investigation into this matter, respondent provided
24 investigators J.D. and S.T. with numerous documents prepared by respondent, purportedly
25 showing that respondent was supervised at Kare Medical Group, Inc., by various practitioners,
26 including:

27 (a) E.J., M.D., on or about August 10, 2010;

28 (b) K.P., M.D., on or about May 4, 2012;

- 1 (c) M. W-M., M.D., on or about August 13, 2012;
2 (d) M.D.M., M.D., on or about September 1, 2012;
3 (e) R.N., M.D., on or about April 9, 2013;
4 (f) O.P., M.D., on or about May 13, 2013;
5 (g) V.J.B., M.D., on or about January 8, 2016.

6 58. Except as regards V.J.B., M.D., respondent provided the investigators with no
7 protocol or drug formularies prepared by any of the above-mentioned supervising physicians in
8 accordance with the Physician Assistant Practice Act and regulations. When asked by Senior
9 Investigator S.T., on or about November 5, 2013, whether she had a drug formulary in place for
10 her then reportedly supervising physicians, R.N., M.D., and O.P., M.D., respondent stated that she
11 uses the Physician Desk Reference and does not prescribe Schedule II medications.

12 59. During the period from approximately August 2010 through approximately April
13 2014, respondent prescribed and/or authorized refills of multiple prescriptions for controlled
14 substances, both under her own name and those of her various alleged supervising physicians.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Dishonesty or Corruption)**

17 60. Respondent is further subject to disciplinary action under section 3527 and California
18 Code of Regulations, title 16, section 1399.521, subdivision (a), as defined by sections 2227,
19 2234, 2234, subdivisions (a), (e), and (f), in that she engaged in an act or acts of dishonesty that
20 are substantially related to the qualifications, functions, or duties of a physician assistant as more
21 particularly alleged hereinafter:

22 61. Paragraphs 24 through 59, above, are hereby incorporated by reference and realleged
23 as if fully set forth herein.

24 62. On or about December 27, 2010, a "Referral Approval Form" was sent by Kare
25 Medical Group to Vantage Medical Group, requesting the approval of a latex urinary leg bag for
26 patient C.J., a Med-Cal patient. According to the form, both the "referring provider" and the
27 "office contact" was L.T., M.D.

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1 63. On or about May 14, 2013, a "Referral Approval Form" was sent by Kare Medical
2 Group to Vantage Medical Group, requesting the approval of a registered nurse and physical
3 therapy services for patient C.J., a Med-Cal patient. According to the form, both the "referring
4 provider" and the "requested provider" was E.J., M.D.

5 64. On or about May 14, 2013, a "Referral Approval Form" was sent by Kare Medical
6 Group to Vantage Medical Group, requesting the approval of an office outpatient visit of 30
7 minutes for patient T.M., A Medi-Cal patient. According to the form, the "referring provider"
8 and the "PCP" was E.J., M.D., and the "office contact" was L.T., M.D.

9 65. On or about May 20, 2013, a "Referral Approval Form" was sent by Kare Medical
10 Group to Vantage Medical Group, requesting the approval of "consult" services for patient T.M.,
11 A Medi-Cal patient. According to the form, the "referring provider" was E.J., M.D.

12 66. On or about June 19, 2013, a "Referral Approval Form" was sent by Kare Medical
13 Group to Vantage Medical Group, requesting the approval of two office visits by patient C.J., a
14 Med-Cal patient. According to the form, the "referring provider" was E.J., M.D., and the "office
15 contact" was L.T., M.D.

16 67. On or about September 29, 2014, an "Outpatient Referral Form" was sent to
17 Arrowhead Regional Medical Center by Kare Medical Group, Inc., requesting consult and
18 treatment services for patient D.S., a Medi-Cal patient. In the space allowed for "provider
19 signature," it appears that the stamp of O.P., M.D., has been appended.

20 68. On or about November 10, 2014, a "Referral Approval Form" was sent by Kare
21 Medical Group to Vantage Medical Group, requesting the approval of "consult and treat" services
22 for patient T.M., A Medi-Cal patient. According to the form, the "referring provider" was
23 "Kendra Care Medical Group" and the provider's signature appears to be the stamp of O.P., M.D.

24 **THIRD CAUSE FOR DISCIPLINE**

25 **(False Representations)**

26 69. Respondent is further subject to disciplinary action under section 3527, 2227, 2234,
27 2234, subdivision (a), of the Code, and California Code of Regulations, title 16, section 1399.521.
28 subdivision (a), as defined by sections 2261, of the Code, in that she knowingly made false

1 representations as more particularly alleged in paragraphs 24 through 68, above, which are hereby
2 incorporated by reference and realleged as if fully set forth herein.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 **(Failure to Maintain Adequate and Accurate Records)**

5 70. Respondent is further subject to disciplinary action under sections 3527, 2227 and
6 2234, of the Code, and California Code of Regulations, title 16, section 1399.521, subdivision (a),
7 as defined by section 2266 of the Code, in that she failed to maintain adequate and accurate
8 records relating to the provision of services to patients T.M., C.J., and D.S., as more particularly
9 alleged in paragraphs 59 and 62 through 68, above, which are hereby incorporated by reference
10 and realleged as if fully set forth herein.

11 **FIFTH CAUSE FOR DISCIPLINE**

12 **(General Unprofessional Conduct)**

13 71. Respondent is further subject to disciplinary action under sections 3527, 2227, 2234,
14 2234, subdivision (a), of the Code, and California Code of Regulations, title 16, section 1399.521.
15 subdivision (a), as defined by section 2234 of the Code, in that she engaged in conduct which
16 breached the rules or ethical code of the medical profession or which was unbecoming a member
17 in good standing of the medical profession, and which demonstrates an unfitness to practice
18 medicine, as more particularly alleged in paragraphs 24 through 70, above, which are hereby
19 incorporated by reference and realleged as if fully set forth herein.

20 **PRAAYER**

21 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
22 and that following the hearing, the Physician Assistant Board issue a decision:

23 1. Revoking or suspending Physician Assistant Number PA 13441, issued to respondent
24 Kendra Armour, P.A.;

25 2. Ordering respondent Kendra Armour, P.A., if placed on probation, to pay the Board
26 the costs of investigation and enforcement of this case, pursuant to Business and Professions Code
27 section 125.3;

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1 3. Ordering respondent Kendra Armour, P.A., if placed on probation, to pay the Board
2 probation monitoring fees; and

3 4. Taking such other and further action as deemed necessary and proper.

4
5 DATED: June 9, 2016



GLENN L. MITCHELL, JR.
Executive Officer
Physician Assistant Board
Department of Consumer Affairs
State of California
Complainant